

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

Case #15-CR-6068-FPG

DECISION AND ORDER

DESMOND BICE, a/k/a DEZ,

Defendant.

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By Order dated May 8, 2015, this case was referred to United States Magistrate Judge Marian W. Payson, pursuant to 28 U.S.C. §§ 636(b)(1)(A) and (B). ECF No. 82. The eight count indictment in this case alleges that Defendant Desmond Bice, a/k/a Dez, possessed cocaine and cocaine base with intent to distribute, possessed firearms in furtherance of drug trafficking crimes, possessed cocaine and cocaine base, and used properties in the Rochester, New York area to manufacture and distribute cocaine and cocaine base. *See* ECF No. 81.

Defendant moved to suppress statements he made to law enforcement on January 21, 2015. ECF No. 92, at 19-20. Defendant did not submit an affidavit from himself or from anyone with personal knowledge who could raise a factual issue regarding the voluntariness of these statements, and Magistrate Judge Payson informed the Defendant and his counsel that she was not inclined to hold an evidentiary hearing without such an affidavit. Defendant was given additional time to submit an affidavit, but Magistrate Judge Payson instead received a letter from Defendant's counsel that indicated no affidavit would be submitted. ECF No. 101.

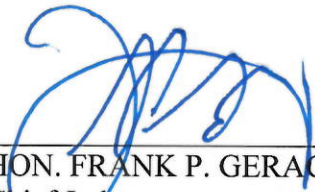
On December 16, 2015, Magistrate Judge Payson issued her Report and Recommendation (ECF No. 102), which recommends the denial of Defendant's suppression motion based upon his failure to demonstrate any issues of fact that would necessitate either suppression as a matter of law or would necessitate an evidentiary hearing. Although defense counsel requested and was granted an extension of time to file objections to the Report and Recommendation, no objections have been filed to the Report and Recommendation, and the time to do so has now expired.

In reviewing a Report and Recommendation, this Court "may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1)(C). Since no objections were filed, this Court is not required to conduct a *de novo* review of Magistrate Judge Payson's Report and Recommendation. *Thomas v. Arn*, 474 U.S. 140, 150 (1985) ("It does not appear that Congress intended to require district court review of a magistrate's factual or legal conclusions, under a *de novo* or any other standard, when neither party objects to those findings"); *see also United States v. Male Juvenile*, 121 F.3d 34, 38 (2d Cir. 1997) ("We have adopted the rule that failure to object timely to a magistrate judge's report may operate as a waiver of any further judicial review of the decision, as long as the parties receive clear notice of the consequences of their failure to object."). Magistrate Judge Payson also reminded the parties the importance of filing timely objections, stating that "**Failure to file objections within the specified time or to request and extension of such time waives the right to appeal the District Court's Order.**" ECF No. 102. (Emphasis in original).

Since no objections have been filed, this Court accepts and adopts the Report and Recommendation filed by United States Magistrate Judge Marian W. Payson (ECF No. 102) in its entirety, and Defendant's motion to suppress statements (ECF No. 92) is in all respects DENIED.<sup>1</sup>

IT IS SO ORDERED.

DATED: Rochester, New York  
March 23, 2016



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HON. FRANK P. GERACI, JR.  
Chief Judge  
United States District Court

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<sup>1</sup> Even if *de novo* review were required, the Court would still adopt Magistrate Judge Payson's Report and Recommendation in its entirety.